

St. Maries Realty

3/22/11

info@stmariesrealty.com

Earl-

Margie and I want to tell you once more how much we appreciate your time and explanations. Thank you, also, for working with Jim Davis on his problem.

I hope what we are returning to you is satisfactory — if not, just tell me what you need.

And remember, when the need comes, all of our property is available for your needs.

Thanks,
Larry



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
REGIONAL COUNSEL

MAR 18 2011

REQUEST AND DEMAND LETTER
URGENT LEGAL MATTER
PROMPT REPLY NECESSARY
FEDERAL EXPRESS NEXT DAY DELIVERY

Lawrence R. Bencik and Ethel M. Bencik
St Maries Realty
726 Main Avenue
St. Maries, Idaho 83861-9564

Re: Request for Actions, Avery Landing Site, Shoshone County, Idaho

Dear Mr. and Ms. Bencik:

The United States Environmental Protection Agency ("EPA") is providing you with this notice of potential liability under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Federal Water Pollution Control Act, also known as the Clean Water Act ("CWA"), and the Oil Pollution Act ("OPA") for the Avery Landing Site located near the town of Avery in Shoshone County, Idaho ("Site"). Records in the possession of EPA indicate that you have been owners of property at the Site since on or before 1996. EPA has incurred, and continues to incur, costs in response to releases and discharges of oil and hazardous substances at the Site. EPA is presently preparing for the implementation of cleanup actions at the Site during the 2011 work season, and in advance of this anticipated work, EPA is interested in obtaining certain commitments from you.

Potential Liability

Under Sections 104(a), 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9604(a), 9606(a) and 9607(a), an owner of contaminated property may be liable for taking action to protect the public health, welfare, or the environment from threats presented by hazardous substances, pollutants or contaminants, and for the payment of costs incurred in conducting cleanup work. In addition, under Sections 311(c) and (e) of CWA, 33 U.S.C. §§ 1321(c) and (e), a private person, including an owner of property, may be liable for taking action to protect navigable waters, adjoining shorelines, and the public health or welfare from threats presented by oil and hazardous substances. Further, under Section 1002(a) of OPA, 33 U.S.C. § 2702(a), a responsible party, including an owner of property, may be liable for the payment of costs incurred to protect navigable waters or adjoining shorelines from threats presented by oil.

Site Work

An assessment by the state of Idaho ("State") in 1991, and a follow-up inspection by EPA in 1993 confirmed that there were ongoing discharges of oil and possibly hazardous substances from the Site to the St. Joe River. Under the oversight of the State, Potlatch Corporation performed some work in an attempt to prevent further discharges to the river. This work was primarily comprised of the construction of free product recovery trenches and the operation of an oil water separator in 1995, and the construction of a vertical barrier containment system and a series of free product collection wells in 2000. Following each these efforts; however, there continued to be discharges of oil and possibly hazardous substances to the St. Joe River.

3/21/11 *#2* Based on an evaluation in 2007, EPA determined that an Engineering Evaluation / Cost Analysis ("EE/CA") was needed in order to more fully evaluate the threats presented by oil and hazardous substances at the Site, and to identify the actions which may be taken to abate such threats. As EPA nears completion of the EE/CA process, and prior to the anticipated initiation of removal actions at the Site during the 2011 work season, EPA is interested in obtaining your consent on certain matters. This includes agreement for you to provide: (1) access to your property for the purpose of performing cleanup work; (2) binding restrictions on some uses of your property; and (3) proper maintenance of your property following the cleanup work.

EPA requests that you enter into an administrative settlement agreement which obligates you to the actions identified above. EPA is presently preparing a draft agreement which sets forth proposed terms for accomplishing these objectives and plans to provide you with a draft of the proposed settlement agreement as soon as possible.

EPA is proposing that your participation in the work at the Site be accomplished in accordance with the Policy Toward Owners of Residential Property at Superfund Sites, dated July 3, 1991. A copy of this policy is enclosed with this letter. Under this policy, so long as you are able to provide the type of commitments identified in this letter, EPA may choose to exercise its enforcement discretion by refraining from seeking to require that you provide the payment of costs incurred by EPA for the Site. In this regard, as of July 31, 2010, EPA has incurred costs of approximately \$584,669.95 for the Site, and expects to incur more costs for the upcoming removal actions.

Administrative Record

EPA has begun to establish an administrative record that contains documents which serve as the basis for selection of the cleanup actions. A copy of the current administrative record, including the EE/CA, is available for public review and comment at the Avery Community Center/Library located at 10 Depot Road in Avery, Idaho. Copies of the current administrative record are also available for public review and comment at the EPA, Region 10, offices located at 1910 Northwest Boulevard, Suite 208, in Coeur d'Alene, Idaho, and at 1200 Sixth Avenue in Seattle, Washington. To arrange an appointment in advance of reviewing the copy of the administrative record at the latter location, please contact the Superfund Records Center at (206) 553-4494.

Contacts

The Federal On-Scene Coordinator for the Site is Earl Liverman. EPA is also represented by Richard Mednick, Associate Regional Counsel, in these matters. Mr. Liverman may be reached at telephone number (208) 664-4858 and electronic mail address liverman.earl@epa.gov, and Mr. Mednick may be reached at telephone number (206) 553-1797 and electronic mail address mednick.richard@epa.gov. Please direct all contacts from PC or PFPC regarding the matters raised in this letter to either Mr. Liverman or Mr. Mednick with the caveat that have all contacts from counsel should be directed to Mr. Mednick.

EPA recommends that you give immediate attention to the matters identified in this letter. In this regard, EPA is interested in knowing within ten (10) of the date of this letter whether you are amenable to the general terms of a settlement outlined above.

Thank you in advance for your efforts in this matter.

Sincerely,



for Chris D. Field, Unit Manager
Emergency Response Unit

Enclosure

cc: Earl Liverman
Richard Mednick

*We fully agree to comply
with paragraph #2 of the previous
page identified by our initials.*

Lauren R. Butcher 3/21/11
Ethel M. Butcher 3/21/11